

BARNES & THORNBURG LLP

FRIED, FRANK, HARRIS,  
SHRIVER & JACOBSON LLP

October 19, 2021

**VIA ECF**

The Honorable Jesse M. Furman  
United States District Court  
Southern District of New York  
40 Centre Street, Room 2202  
New York, NY 10007

Re: ***United States v. Jose Martinez-Diaz, 1:16-cr-387-10 (JMF)***

Dear Judge Furman:

On behalf of our CJA client Jose Martinez-Diaz, we respectfully request an adjournment of the sentencing hearing, currently scheduled for November 2, 2021, to a date that is convenient to the Court in the week of December 13<sup>th</sup>. The government, through Assistant United States Attorney Justin Rodriguez, consents to this request.

This is Mr. Martinez-Diaz's sixth request for an adjournment of his sentencing hearing. Four of the adjournments, which were requested on January 30, 2020 (ECF No. 354), June 30, 2020 (ECF No. 420), November 25, 2020 (ECF No. 470), and April 23, 2021(ECF No. 499) were necessary because BOP had moved Mr. Martinez-Diaz to Puerto Rico, where he has pleaded guilty to a separate indictment. The last adjournment, which was requested on August 20, 2021 (ECF No. 545), was necessary because the timing of BOP's return of Mr. Martinez-Diaz to the Southern District of New York and the BOP's mandatory quarantine protocols stood to deprive us of adequate time to work with Mr. Martinez-Diaz to finalize his sentencing submission.

We request this adjournment in light of the difficulties we continue to face in accessing Mr. Martinez-Diaz, particularly since the Brooklyn MDC began housing inmates that were formerly held at the Manhattan MCC.<sup>1</sup> These difficulties have been exacerbated by the need to coordinate with the busy schedules of CJA approved Spanish-English interpreters so that we may communicate with Mr. Martinez-Diaz during legal visits. During a truncated visit yesterday, Mr. Martinez-Diaz expressed what we believe is a legitimate concern that these circumstances have deprived him of the chance to meaningfully review and comment on the draft sentencing submission.

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<sup>1</sup> See Noah Goldberg, *Feds Launch Emergency Search For Gun At Brooklyn Federal Jail*, N.Y. DAILY NEWS (Oct. 15, 2021) (noting that MDC is “dealing with an influx of inmates due to the imminent closure of Manhattan’s federal jail” and that MDC inmates “have sued the Bureau of Prisons over lack of access to their attorneys through in-person visits and phone calls”), <https://www.nydailynews.com/new-york/ny-weapon-mdc-brooklyn-discovered-20211015-pmxmopa2ovcxla2ajk4kaulxw4-story.html>.

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We therefore request this additional adjournment to provide time for us to work with Mr. Martinez-Diaz to finalize his sentencing submission and prepare him for the sentencing hearing.

Respectfully Submitted,

**BARNES & THORNBURG LLP**

*/s/ Lawrence Gerschwer*

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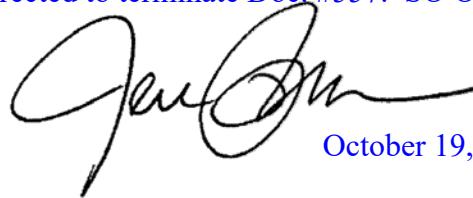
*/s/ Steven Witzel*

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Application GRANTED. Sentencing is ADJOURNED to December 13, 2021, at 3:30 p.m. The Clerk of Court is directed to terminate Doc. #557. SO ORDERED.



October 19, 2021